

REMARKS/ARGUMENTS

In view of the above amendments and the foregoing remarks, applicants respectfully request reconsideration of the currently pending claims.

Claims 11, 12, 22, 23, 27-29, 32 and 33 are currently pending, of which claims 32 and 33 were previously withdrawn pursuant to a Restriction Requirement. Claims 26 and 31 have been canceled without prejudice or disclaimer by way of this response. Applicants reserve the right to pursue canceled and withdrawn subject matter in one or more continuation or divisional applications.

Claims 11 and 27 have been amended to remove “diethylether” as an ether solvent for precipitating atorvastatin calcium.

No new matter has been added by way of this response.

Enablement rejection and claim objections

Claims 11, 12, 22, 23, 26-29, and 31-33 stand rejected under 35 U.S.C. §112, first paragraph, for lack of enablement. Specifically, the Examiner maintains that the field of making crystalline/amorphous forms of atorvastatin is unpredictable, and that undue experimentation would be required for one of ordinary skill in the art to determine which solvents would lead to amorphous atorvastatin. The Examiner has also objected to claims 26 and 31 as depending from a rejected claim, and suggests that these claims would be allowable if rewritten in independent form.

Without acquiescing to the validity of the rejection, and solely to expedite prosecution, Applicants have amended claims 11 and 27 to remove “diethylether” as an ether solvent for precipitating atorvastatin calcium. Thus, claims 11 and 27 as amended are equivalent in scope to allowable claims 26 and 31, which have been canceled herein. Accordingly, as acknowledged by the Examiner, the applicants respectfully submit that all of the pending claims are now in condition for allowance. Applicants respectfully request that the enablement rejection be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

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Respectfully submitted,
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